

REMARKS

Claims 1-4, 6-8, 10-12, 14-16, 24-27, 30-32, 34, 35 and 37-48 are pending.

Claims 1-4, 6-8, 10-12, 14-16, 24-27, 30-32, 34, 35 and 37-48 stand rejected.

Claims 1, 10, 24, 30, and 31 have been amended. Support for these amendments can be found throughout the originally-filed application. For example, support can be found at least in lines 10-30 of page 16 of the application.

Claims 44-48 have been canceled.

Rejection under 35 U.S.C. § 103

Claims 1-4, 6, 8, 10-12, 14, 16, 24, 25, 30-32, 34, 35 and 37-43

Claims 1-4, 6, 8, 10-12, 14, 16, 24, 25, 30-32, 34, 35 and 37-43 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,990,073 issued to Sandoval ("Sandoval") in view of U.S. Patent No. 6,907,001 issued to Nakayama et al. ("Nakayama"). *See* Office Action, p. 2. However, Applicants have amended independent claims 1, 10, 24, 30, and 31 to recite limitations similar to those contained in claims 44-48. Since the Office Action acknowledges that the limitations of claims 44-48 are not taught by the combination of Sandoval and Nakayama (*see* Office Action, p 14), Applicants respectfully request the withdrawal of this rejection.

Applicants recognize that the Office Action rejects claims 44-48 as being unpatentable over the combination of Sandoval, Nakayama, and Jeffries (US 2006/0233102). *See* Office Action, p. 14. Therefore, Applicants provide the following remarks to show that independent claims 1, 10, 24, 30, and 31 are patentable over the combination of Sandoval, Nakayama, and Jeffries.

Independent claim 1 has been amended to require “modifying the first predetermined value in response at least in part to the comparing the first data quantity value to the first predetermined value.” The Office Action cites the abstract of Jeffries to find a teaching of “modifying [a] first predetermined value in response to [an act of] comparing. *See* Office Action, p. 14. Applicants submit that even if it is assumed, for the sake of argument, that Jeffries teaches modifying a predetermined value in response to some act of comparing, such a teaching would fail to teach, suggest, or imply the requirements of the above amendment. This follows at least from the fact that such a teaching would fail to teach, suggest, or imply modifying a first predetermined value in response at least in part to comparing a first data quantity value to the same first predetermined value that is being modified, as required by the above amendment.

In addition, the cited section of Jeffries states:

A method and system for controlling a flow of a plurality of packets in a computer network is disclosed. The network includes a queue having a maximum queue level that is possible. The method and system include determining a queue level for the queue and determining an offered rate of the plurality of packets to the queue. The method and system also include determining a virtual maximum queue level based on the queue level and the maximum queue level and controlling a transmission fraction of the plurality of packets to the queue, based on the queue level, the offered rate and the virtual maximum queue level.

Jeffries, Abstract (emphasis added). Thus, at best the cited section teaches modifying Jeffries’ transmission fraction. The cited section fails to mention the modification of any other quantity. However, the cited section states only that Jeffries’ transmission fraction is controlled based on Jeffries’ queue level, offered rate, and virtual maximum queue level. Thus, the cited section fails to teach that Jeffries’ transmission fraction is modified

in response, at least in part, to comparing Jeffries' transmission fraction itself to some other quantity.

Further, it would not be expected that Jeffries would teach that Jeffries' transmission fraction is modified in response, at least in part, to comparing Jeffries' transmission fraction itself to some other quantity. Jeffries provides the following equation governing the value of its transmission fraction:

$$T(t+Dt) = T(t) + (I(t)*Dt/Q_{\max})*(A-B*T(t)-Q(t)/Q_{\max}).$$

See Jeffries 6:40-43. Thus, Jeffries' transmission fraction changes if and only if the quantity  $(I(t)*Dt/Q_{\max})*(A-B*T(t)-Q(t)/Q_{\max})$  is non-zero. Thus, Jeffries transmission fraction will change or remain the same regardless of whether or not Jeffries transmission fraction has been compared to any other quantity.

Thus, for at least the reason that the cited sections of Jeffries fail to teach modifying a first predetermined value in response at least in part to comparing a first data quantity value to the same first predetermined value, Applicants submit that claim 1 is patentable over the combination of Sandoval, Nakayama, and Jeffries. Therefore Applicants respectfully request the withdrawal of the rejection against claim 1 and its dependent claims, and a notice of the allowance of the same.

Since independent claims 10, 24, 30, and 31 have been amended to recite limitations similar to those discussed above in regards to claim 1, Applicants respectfully request, for similar reasons, the reconsideration and withdrawal of the rejection against claims 10, 24, 30, and 31 and their respective dependent claims, and a notice of the allowance of the same.

Claims 7, 15, 27, 38, and 44-48

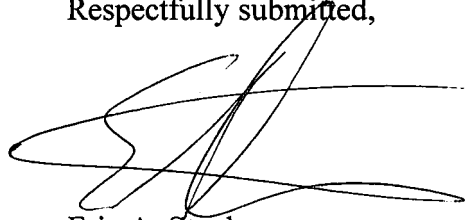
Claims 7, 15, 27, 38, and 44-48 stand rejected under 35 U.S.C. § 103 as being unpatentable over some combination of three or more of Sandoval, Nakayama, Jeffries, and Kusumoto (US 2006/0233102). *See* Office Action, pp. 13-14. Applicants respectfully request the withdrawal of the rejection of these claims for at least the reason that these claims are respectively dependent upon one of allowable base claims 1, 10, 24, 30, and 31.

CONCLUSION

In view of the amendments and remarks set forth herein, the application and the claims therein are believed to be in condition for allowance without any further examination and a notice to that effect is solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, the Examiner is invited to telephone the undersigned.

If any extensions of time under 37 C.F.R. § 1.136(a) are required in order for this submission to be considered timely, Applicant hereby petitions for such extensions. Applicant also hereby authorizes that any fees due for such extensions or any other fee associated with this submission, as specified in 37 C.F.R. § 1.16 or § 1.17, be charged to Deposit Account 502306.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Eric A. Stephenson', with a large, sweeping flourish extending to the left.

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